

# CONSUMER PRODUCT SAFETY

## *Hazardous Household Substances*

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) regulates the sale of hazardous substances. Wisconsin Statutes section 100.37 applies to substances that are toxic, corrosive, irritants, strong sensitizers, flammable, combustible or pressure-generating, if those substances could cause substantial personal injury or substantial illness as a result of customary or reasonably foreseeable use. The law does not apply to:

- Pesticides.
- Foods, drugs or cosmetics.
- Ammunition.
- Fuels used for home heating, cooking or refrigeration.

## **Federal Standards**

Hazardous substances must comply with federal standards adopted by the [U.S. Consumer Product Safety Commission](#). The Commission has adopted safety and labeling standards for a large number of substances.

## **State Rules**

DATCP has adopted state rules for the sale of hazardous substances (see Wisconsin Administrative Code chapter ATCP 139). The rules address the following:

- **General labeling.** Hazardous substance labels must include the following information (the rule spells out location, format and type size):
  - The name of the product manufacturer or labeler.
  - The common name of the hazardous substance.
  - An appropriate signal word (DANGER, WARNING or CAUTION, depending on the substance, hazard type and hazard level). Highly toxic substances must also bear the word POISON and the skull and cross-bones. For some substances, the word POISON must be used in place of any other signal word.
  - A statement of the principal hazards (such as “Flammable,” “Combustible,” “Vapor Harmful,” “Causes Burns,” “Absorbed Through Skin,” or similar descriptive wording).
  - Precautionary measures (actions to be followed or avoided).
  - First-aid instructions, where necessary and appropriate.
  - Package handling and storage instructions for packages that require special care.
  - The statement “Keep Out of the Reach of Children” or, if the substance is intended for use by children, directions to protect children from the hazard.

- ***Supplemental labeling.*** The rule spells out supplementary labeling requirements for many substances. For example, charcoal must be labeled with a prominent warning that it is not to be used for indoor heating or cooking, because toxic fumes may cause death.
- ***Banned substances.*** The rule bans certain substances. These substances pose safety hazards that cannot be adequately addressed by cautionary labeling. In some cases, the rule bans the substances only for certain uses.
- ***Exemptions.*** The rule provides some exemptions related to small packages, minor hazards and special circumstances.
- ***Test methods.*** The rule provides that federal test methods are also used under state law.

## Compliance Actions

DATCP may take action against a hazardous substance. DATCP may:

- Enforce compliance with federal and state rules.
- Require safety labeling.
- Ban a substance, if that substance poses a serious hazard that cannot be adequately addressed by labeling.
- Issue a holding order to prevent the sale of a suspect substance, pending further evaluation. A holding order remains in effect for 14 days.
- Prosecute law violations. DATCP may:
  - Seek a court injunction under Wisconsin Statutes section 100.37(4).
  - Ask a district attorney to initiate a criminal prosecution. There is a criminal penalty of \$5,000 or one year in jail, or both, under Wisconsin Statutes section 100.37(8).
  - Prosecute rule violations as unfair business practices, in appropriate cases. Since ATCP 139 is adopted under authority of Wisconsin Statutes section 100.20(2), as well as 100.37, DATCP may prosecute rule violations under Wisconsin Statutes sections 100.20(6), 100.26(3) or 100.26(6).